



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,505	08/27/2002	Jean Rousseau	REGMI-013	9497
530	7590	07/28/2004	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			BEISNER, WILLIAM H	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/089,505	Applicant(s) ROUSSEAU ET AL.	
	Examiner William H. Beisner	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2004 and 15 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 5-11 is/are rejected.
- 7) ☒ Claim(s) 2,4 and 12-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The substitute specification and abstract filed 13 April 2004 have been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

Art Unit: 1744

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 3 and 5-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCurdy (US 3,450,389) in view of Cribb et al.(US 4,948,440).

The reference of McCurdy discloses a reactor device or mixing device (1) that includes an outer envelope (2), an inner envelope (14), an inner compartment (16) and an outer compartment (17). The envelopes and/or compartments are sealed relative to the external environment and communicate with one another “mainly” in the bottom of the compartments (See the figure). The device also includes means for injecting pressurized gas (21) into the inner compartment and means for removing directly pressurized gas (20) from the outer compartment.

Claim 1 differs because the claim recites that the envelopes are made of plastic while the primary reference of McCurdy is silent as to the material of construction of the reactor structures.

The reference of Cribb et al. discloses that it is conventional in the art to manufacture a mixing chamber and related components for mixing explosive materials out of plastic materials (See column 3, lines 48-54).

In view of this teaching, it would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the device of the primary reference of McCurdy out of plastic materials for the known and expected result of employing an art recognized material for the manufacture of an explosive materials mixing chamber.

Note in the absence of further positively recited structure that defines “disposable”, the reactor as modified above structurally meets the instant claim language and is capable of being disposed of.

With respect to claims 3 and 7, the system for injecting pressurized gas would be capable of injecting “pure oxygen” or “nitrogen” gas.

With respect to claims 5 and 6, the reference of McCurdy discloses the use of nozzles (20 and 21).

With respect to claim 8 and 9, the use of a tube in communication with the bottom of the vessel, it would have been obvious to one of ordinary skill in the art to provide the outer envelope with a tube for the known and expected result of providing a means recognized in the art for allowing the liquid material to be removed from the reaction vessel. Note, statements of intended use carry no patentable weight in apparatus-type claims when the structures elements are structurally capable of providing the intended use or function.

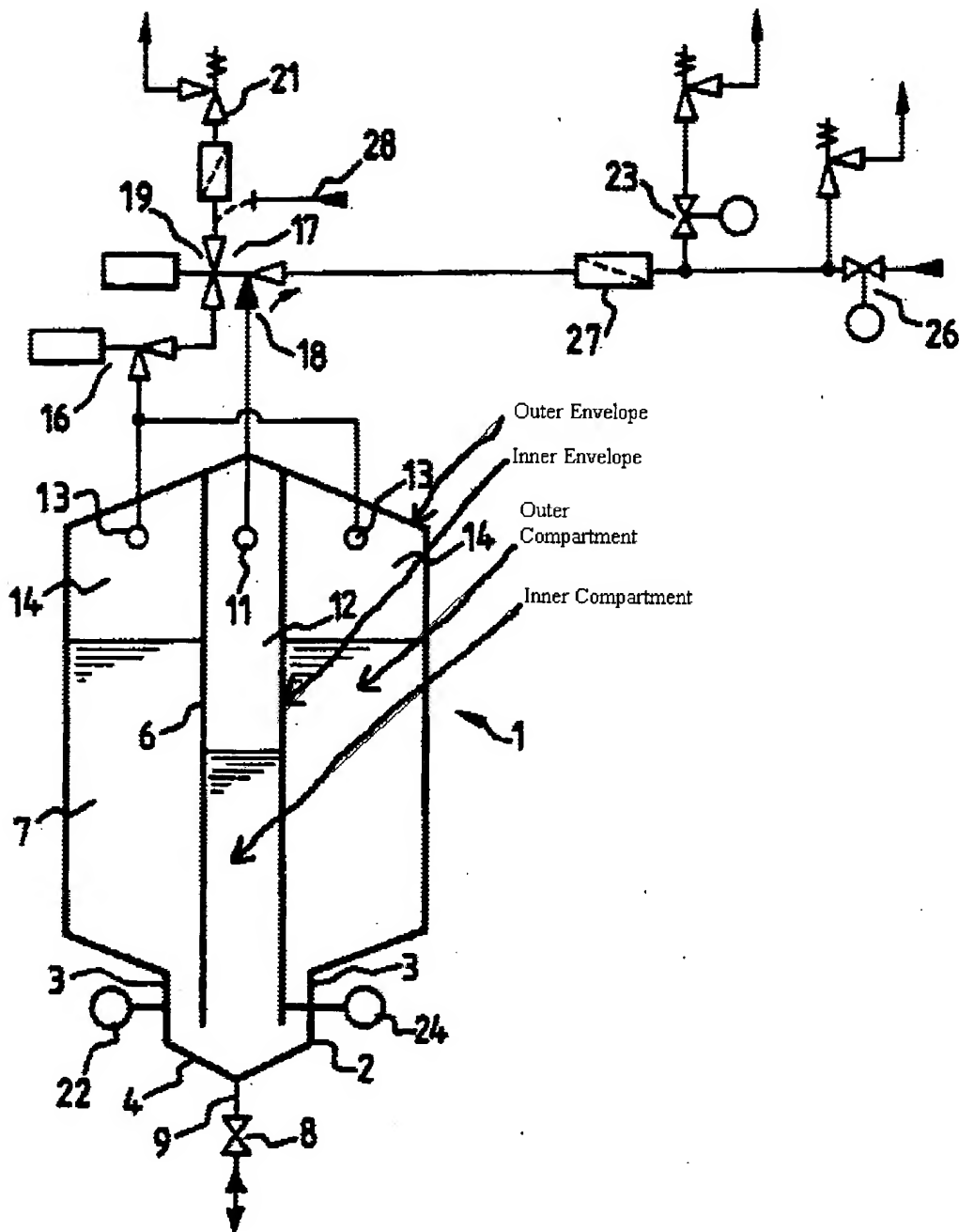
With respect to claim 10, while the reference is silent as to the use of a filter on the gas lines, it would have been well within the purview of one having ordinary skill in the art to employ a filter on the gas lines for the known and expected result of preventing contamination of the either the contents of the reactor and/or external environment.

With respect to claim 11, while the reference is silent as to the use of a liquid outlet, it would have been obvious to one of ordinary skill in the art to provide the device with an outlet or “tap-off” for the known and expected result of allowing liquid material to be introduced within the reactor vessel.

Art Unit: 1744

6. Claims 1, 3 and 5-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sillett (US 5,005,472) in view of Nelson (US 3,678,955).

The reference of Sillett discloses a reactor device or mixing device (1) that includes an outer envelope, an inner envelope, an inner compartment and an outer compartment (See Figure Below). The envelopes and/or compartments are sealed relative to the external environment and communicate with one another "mainly" in the bottom of the compartments. The device also includes means for injecting pressurized gas (11) into the inner compartment and means for removing directly pressurized gas (13) from the outer compartment.



Claim 1 differs because the claim recites that the envelopes are made of plastic while the primary reference of Sillett is silent as to the material of construction of the reactor structures.

The reference of Nelson discloses that it is conventional in the art to manufacture aseptic food storage vessels out of plastic materials (See column 3, lines 50-75).

In view of this teaching, it would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the device of the primary reference of Sillett out of plastic materials for the known and expected result of employing an art recognized material for the manufacture of an aseptic food storage chamber.

Note in the absence of further positively recited structure that defines “disposable”, the reactor as modified above structurally meets the instant claim language and is capable of being disposed of.

With respect to claims 3 and 7, the system for injecting pressurized gas would be capable of injecting “pure oxygen” or “nitrogen” gas.

With respect to claims 5 and 6, the reference of Sillett discloses the use of nozzles (11 and 13).

With respect to claim 8 and 9, the reference of Sillett discloses the use of tube (9) that communicates with the bottom of the outer compartment. Note statements of intended use carry no patentable weight in apparatus-type claims when the structures elements are structurally capable of providing the intended use or function.

With respect to claim 10, while the reference is silent as to the use of a filter on the gas lines, it would have been well within the purview of one having ordinary skill in the art to employ a filter on the gas lines for the known and expected result of preventing contamination of the either the contents of the reactor and/or external environment.

With respect to claim 11, while the reference is silent as to the use of a liquid outlet, it would have been obvious to one of ordinary skill in the art to provide the device with an outlet or “tap-off” for the known and expected result of allowing liquid material to be introduced within the reactor vessel.

Allowable Subject Matter

7. Claims 2, 4 and 12-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter:

With respect to claims 2 and 4, while the prior art of record discloses that the inner and outer compartments are in fluid communication “mainly” in the bottom portion of the compartments, the prior art of record fails to teach or fairly suggest additional lateral openings and/or band of perforation that also provide communication between the compartments.

With respect to claims 12-14 and 16, the prior art of record fails to teach or fairly suggest manufacturing the device recited in claim 1 out of a flexible material.

With respect to claim 15, the prior art of record fails to teach or fairly suggest providing a flexible sampling bag provided in communication with the outer envelope as recited in claim 15.

Response to Arguments

9. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection. Note while applicants' amendments to claim 1 are sufficient to overcome the prior art rejections using the references of Whitney and Mulder et al. the amendments have necessitated a new ground of rejection.

10. With respect to Applicants' additional comments concerning the claim limitation "disposable", the examiner is of the position that the reactors of the new rejections of record are considered to be disposable. Especially in the absence of further positively recited structural limitations in terms of the material of construction or other positively recited language that would define one plastic vessel over another in terms of being "disposable". In the absence of additional positively recited structure, the fact that a reactor is intended to be reused does not preclude it from being "disposable".

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

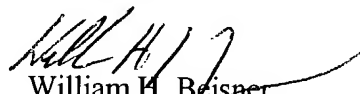
Art Unit: 1744

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Beisner whose telephone number is 571-272-1269. The examiner can normally be reached on Tues. to Fri. and alt. Mon. from 6:15am to 3:45pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


William H. Beisner
Primary Examiner
Art Unit 1744

WHB